

January 9, 2009

## UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker  
Clerk of Court

## FOR THE TENTH CIRCUIT

TERRY L. NICHOLS,

Plaintiff,

MARK J. ALLEN,

Plaintiff - Appellant,

v.

No. 09-1010

(D.C. No. 1:08-CV-02064-ZLW)

UNITED STATES OF AMERICA;  
HARVEY LAPPIN; JOHN/JANE DOE;  
MICHAEL NALLEY; MS. PERRY;  
RON WILEY; ROD BAUER; DR.  
LEYBA, M.D.; DR. STEVEN  
NAFZIGER, M.D.; DARRON GALL;  
MR. JONES; KEITH POWLEY; DR.  
THOMAS WEBSTER, M.D.; DR.  
DORRIS WILLIAMS, M.D.; JOHN DOE  
I; DR. NEWTON KENDING, M.D.;  
JOHN DOE II; DR. MICHAEL  
NELSON, M.D.; DONALD DENNEY;  
D. SCHIEFELBEIN; N. GLADBACH; B.  
DALGLIESH,

Defendants - Appellees.

---

**ORDER**

---

Mark J. Allen sent a document to this court that was construed as a misdirected notice of appeal and was accordingly transmitted to the United States District Court for the District of Colorado in connection with its Case No. 08-CV-02064-ZLW. *See* Fed. R.

App. P. 4(d). In the ordinary course, preliminary documents were sent to this court from the district court and this appellate docket was opened.

Mr. Allen subsequently tendered a document to the district court that was transmitted to this court. In this document, Mr. Allen states that the original document which was construed as a notice of appeal was not intended to be a notice of appeal, that it was misconstrued, and that it is not his intent to file an appeal at this time because of a Fed.R.Civ.P. 59 motion still pending in the district court.

Accordingly, this appeal is administratively closed, having been improvidently opened.

Entered for the Court  
ELISABETH A. SHUMAKER  
Clerk of Court

A handwritten signature in dark ink, appearing to read 'Douglas E. Cressler', written over a horizontal line.

by:  
Douglas E. Cressler  
Chief Deputy Clerk